

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BETTY MONCION,

Plaintiff,

-against-

STEPHEN SONDHEIM THEATER,

Defendant.

22-CV-1025 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is proceeding *pro se* and *in forma pauperis* (IFP), filed this complaint alleging that Defendants violated her rights. By order dated March 25, 2022, the Court directed Plaintiff to amend her complaint within 60 days to address deficiencies in her original pleading.¹ Plaintiff filed an amended complaint on July 11, 2022, and the Court has reviewed it. The action is dismissed for the reasons set forth below.

BACKGROUND

The following facts are drawn from Plaintiff's original complaint. In September 2018, an unidentified company sent Plaintiff to clean the Stephen Sondheim Theater. After "about two month[s]," the "boss from the company" told Plaintiff that the supervisor at the theater did not want her working there anymore, and she was fired. (ECF 2 at 8.) Plaintiff did the work that she was asked to do, and therefore the only explanation for what occurred is that someone discriminated against her. (*Id.*) Plaintiff did not specify the basis for the alleged discrimination.

¹ The Court dismissed the action on June 6, 2022, because Plaintiff did not file an amended complaint within sixty days. (ECF 4.) The Court reopened the matter on June 9, 2022, after Plaintiff submitted a change of address, and granted Plaintiff an additional 60 days to file an amended complaint. (ECF 7.)

Plaintiff also claimed that she was not paid all of the money to which she was entitled. Plaintiff sought \$50,000 in damages. (*Id.*)

In the March 25, 2022 order, the Court construed the complaint as alleging a claim of employment discrimination as well as a claim under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.* In that order, the Court directed Plaintiff to submit an amended complaint identifying the employer and containing facts suggesting that she was discriminated against on the basis of a protected characteristic, (for example, her race, national origin, or age), and that her employer failed to pay her the federal minimum wage for work performed. (ECF 4.)

Plaintiff submitted an amended complaint, but it does not comply with the order to amend. (ECF 9.) In it, Plaintiff again asserts that she was discriminated against, but she does not identify the employer or allege the basis for the discrimination or that she was fired because of a protected characteristic. Additionally, Plaintiff does not provide any additional facts regarding the amount of money that she was owed or paid. In short, the allegations in the amended complaint are substantially similar to those asserted in the original complaint, and fail to state a claim. The amended complaint is therefore dismissed for the reasons set forth in the May 25, 2022 order.

FURTHER LEAVE TO AMEND DENIED

District courts generally grant a *pro se* plaintiff leave to amend a complaint to cure its defects, but leave to amend may be denied if the plaintiff has already been given an opportunity to amend but has failed to cure the complaint's deficiencies. *See Ruotolo v. City of New York*, 514 F.3d 184, 191 (2d Cir. 2008); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Because the defects in Plaintiff's amended complaint cannot be cured with a further amendment, the Court declines to grant Plaintiff another opportunity to amend.

CONCLUSION

Plaintiff's complaint, IFP under 28 U.S.C. § 1915(a)(1), is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to issue judgment in this case.

SO ORDERED.

Dated: August 22, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge